

## **REMARKS/ARGUMENTS**

Claims 1-20 are presently pending in the application as set forth in the Preliminary Amendment B filed April 4, 2007.

In this amendment,

Claims 1-3, 6, 8, 16 and 20 are amended

Claims 7 and 13-15 have been canceled without prejudice to filing a continuation with respect thereto.

Claim 21 has been added.

Claims 4, 5, 9-12, 17-19 remain unaltered.

Claims 12 and 19 stand withdrawn as being directed to a non-elected species.

### **I. Rejection Under 35 U.S.C. §102**

The Examiner rejected Claims 13-15 under 35 U.S.C. §102 as being anticipated by St. Germain (US 4,850,453). Claims 13-15 have been canceled, thereby rendering this rejection moot. In canceling Claims 13-15, Applicants do not concede that St. Germain does in fact anticipate the claimed subject matter set forth therein. Rather, Claims 13-15 have been canceled in an effort to move examination of the application along.

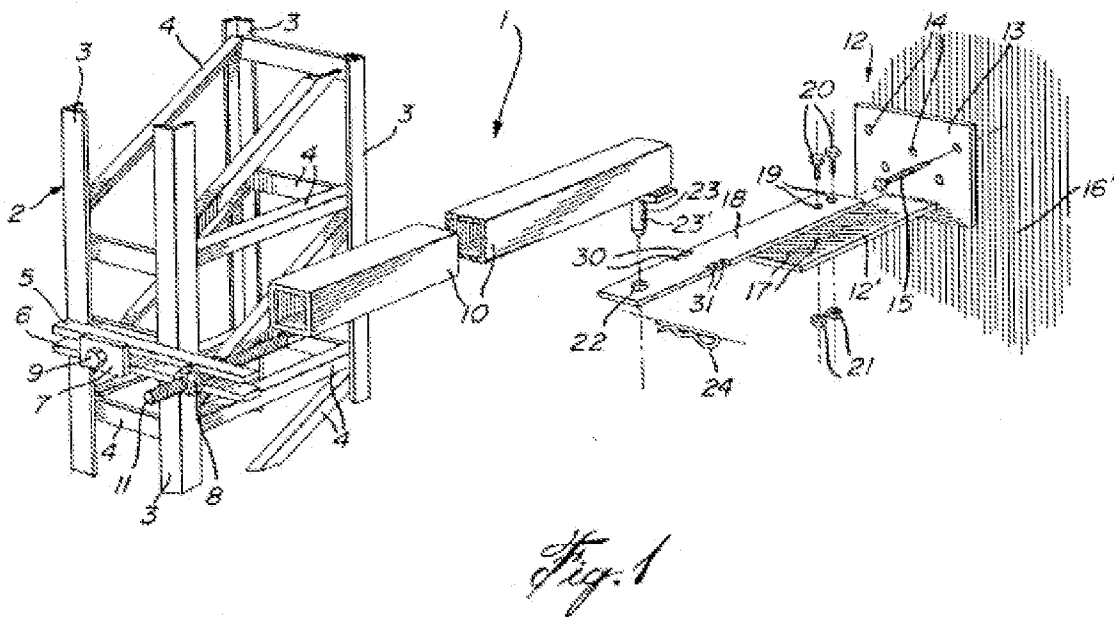
### **II. Rejections Under 35 U.S.C. §103**

#### **A. Claims 16-18**

The Examiner rejected Claims 16-18 under 35 U.S.C. §103 as being unpatentable over St. Germain in view of Shoemaker (US 3690613). Claim 16 has been amended to be placed in independent form, and to include the elements of Claims 13-15. Claim 16 has

further been amended to provide (1) that the attachment strap is flexible (App. Par. [0050]); and (2) that the standoff leg engages “the retaining wall in use to maintain the frame a determined distance from the wall”. (App. Par. [0053], Fig. 14). Claim 16 also provides that “said retainer [cooperates] with said attachment strap to pull said stand-off assembly toward said retainer, thereby urging a surface of said retainer and said stand-off against opposite sides of said retaining wall to secure the frame in position relative to the retaining wall”.

St. Germain discloses an assembly for attaching scaffolding to a wall. Fig. 1 of St. Germain is reproduced below.

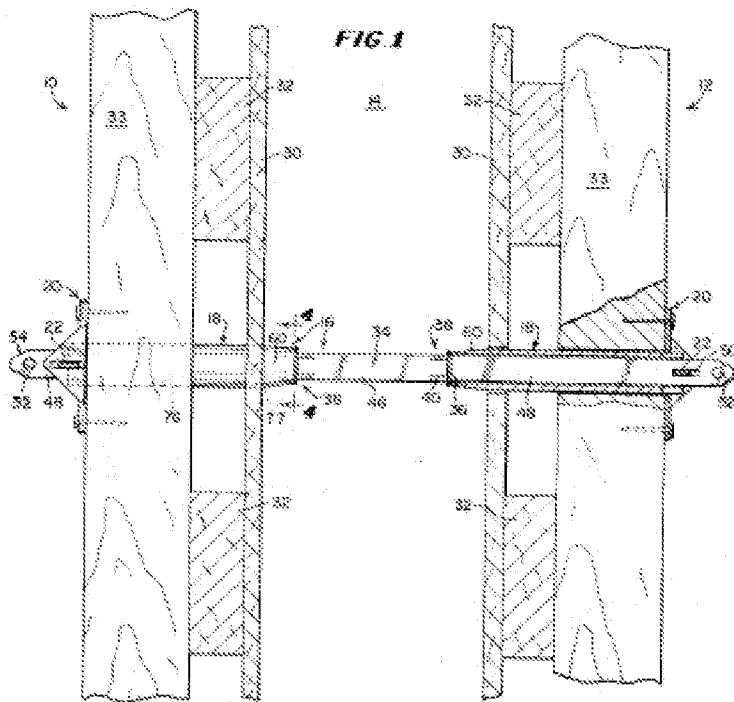


As described in the '453 patent, St. Germain uses an elongated threaded rod 11 which is secured to the scaffolding by means of the flat bars 5 and 6 and a pair of nuts 8 (only one of which is shown). An elongate beam 10 is welded or otherwise secured to the

rod 11. The beam 10 is connected to a rigid link 18 by means of a peg 23 which extends from the beam 10 through an opening 22 in the link 18. The link 18, in turn, is mounted to a plate 12' of a bracket 12 which is fixed to a wall 16. As seen, the bracket 12 secured to the side 16' of the wall 16 adjacent the scaffolding.

Shoemaker discloses a rod securing means for maintaining a concrete wall form.

As seen in FIG. 1 which is reproduced below, Shoemaker provides a tie rod 34 which



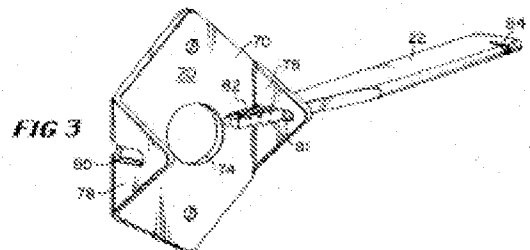
extends through the opposite sides 10 and 12 of a concrete form 14. Sleeve cones 18 pass through each side of the concrete form, and the tie rod passes through the sleeve cones. Backing plates 20 are secured to the outside (back sides) of each of the sides 10 and 12 of the form 14. The tie rod passes through the plates 20. Wedges 22 are provided which pass

through slots 50 in the opposite ends of the tie rod, slots 80 in upturned corners of the plate 20, and slots 64 in the cone sleeve.

Neither St. Germain nor Shoemaker disclose the use of either a flexible attachment strap or a standoff as currently set forth in Claim 16. In fact, Applicants point out that if either the tube 10 or rigid link 18 of St. Germain were replaced with a flexible strap, St.

Germain would become inoperative. The replacement of these rigid members with a flexible member would allow for the scaffolding of St. Germain to move relative to the bracket (12) and wall (16). Applicants attachment system avoids this problem by passing the strap through the wall, and then pulling the strap taut with the retainer. As can be appreciated, this pulls the standoff and the retainer against opposite sides of the wall to secure the frame of the fall protection system in place relative to the wall. In view of the fact that neither St. Germain nor Shoemaker disclose an attachment assembly as currently set forth in Claim 16, Applicant respectfully submits that Claim 16 is allowable over both St. Germain and Shoemaker whether considered individually or in combination. Claims 17-19 all depend from Claim 16 and are therefore also believed to be allowable. In view of the fact that Claim 16 is believed to be allowable, Applicants request that Claim 19 which depends from Claim 16, but has been withdrawn, be rejoined.

In particular, with respect to Claim 18, none of the references teach or suggest that the slot in the retainer body (which is aligned with the attachment strap slot) has a sloped surface, and that the slope of this surface corresponds to the slope of the wedge. While the wedge bolt 22 of Shoemaker does have a sloped surface, the slots 80 in the plate 20 through which the wedge bolt passes are both of equal size, as seen in FIG. 3, which is reproduced at the right.



As seen, the slots of Shoemaker's plate do not define a slope surface. In view of the fact that neither of the cited references disclose or suggest the sloped surface of the retainer

body slot as set forth in Claim 18, Claim 18 is believed to be allowable independently of the allowability of Claim 16 from which it depends.

**B. Claims 1 and 4**

The Examiner rejected Claims 1 and 4 under 35 U.S.C. §103 as being unpatentable over Dandurand (US 6983824) in view of Burton (2249941).

Claim 1 has been amended to generally include the subject matter of Claim 8 and to further provide that the attachment strap is flexible. Claim 1 thus provides for a fall protection system comprised of a frame (comprised of the base plates and the cross-braces and/or guard rails) which is held against a wall by an attachment assembly and spaced from the wall a predetermined distance by a stand-off assembly. The attachment assembly comprises a flexible strap and a retainer. The attachment strap has a first end and a second end. The first end is adapted to be removably connected to the stand-off assembly. The strap is sized to extend through the wall. The retainer engages the attachment strap on a side of the wall opposite the frame. As is set forth in Claim 1, the retainer places a tensile stress on the attachment strap which pulls the stand off assembly, and hence the frame, against the wall to retain the frame in place relative to the wall.

As discussed above in conjunction with Claim 16, none of the references whether considered individually or in combination teach or suggest a fall protection system (or scaffolding system) having a stand-off assembly which spaces the scaffolding frame from the wall a desired distance, a flexible attachment strap which is connected to the stand-off assembly and which extends through the wall, and a retainer which engages that

attachment strap on the opposite side of the wall and effectively pulls the scaffolding against the wall to hold the scaffolding in place relative to the wall.

**C. Claim 3**

The Examiner rejected Claim 3 as being unpatentable over Reyland (US 6131698) in view of Burton. Claim 3 depends from Claim 1, and is thus believed to be allowable for the same reasons set forth above in conjunction with Claim 1. However, Claim 3 has been amended to provide that the width of the coupling tube is smaller at the ends of the coupling tube than at the middle of the coupling tube. This can be seen for example in FIGS. 6A-D and is described in the application at paragraph [0037]. Neither Reyland nor Burton teach or suggest a coupler as set forth in Claim 3. Hence, Claim 3 is believed to be allowable independently of Claim 1.

**D. Claim 2**

The Examiner rejected Claim 2 under 35 U.S.C. §103 as being unpatentable over Dandurand and Burton and further in view of Lanka (US 6539677). The Examiner asserted that Lanka discloses a level adjustment means. Applicant respectfully submits that element 22 of Lanka (which includes elements 46, 50, and 52 noted by the Examiner) is not a level adjustment means. As noted in Lanka, element 22 is an extensible support leg (Col. 4, lines 17-18) which is connected at one end to a main frame rail 14 along the length of the main frame rail. In particular, Applicants note that the bolt 50 is not mounted to the base plate and does not receive the bottom end of the upright. Applicants respectfully submit that the element 22 of Lanka serves more as a guy-wire type element

than as a leveling element. To make the construction of the leveling adjustment clearer, Claim 2 has been amended to clarify that the leveling adjustment screw and nut are positioned between the base plate and the upright, and that the nut receives the bottom end of the upright. Inasmuch as this construction is not taught or suggested by the references of record, Applicant respectfully submits that Claim 2 is allowable independently of the allowability of Claim 1.

**E. Claim 5**

The Examiner rejected Claim 5 under 35 U.S.C. §103 as being unpatentable over Dandurand and Burton and further in view of Frank et al. (US 6062341). Claim 5 depends from Claim 1 via Claim 4. As discussed above, Claims 1 and 4 are believed to be in condition for allowance. Claim 5 is thus believed to be allowable in view of its dependency from allowable Claim 1.

**F. Claims 6-8**

The Examiner rejected Claims 6-8 as being unpatentable over Dandurand and Burton and further in view St. Germain. Claims 6 and 8 depend from Claim 1, which as discussed above is believed to be in condition for allowance. Claim 7 has been canceled in view of the amendment to Claim 1. Claims 6 and 8 are believed to be allowable in view of their dependency from Claim 1.

In his rejection of Claim 6, the Examiner asserted that St. Germain shows a “standoff assembly with a base 5, a leg 10, a dowel 23, and an attachment assembly with a strap 18”. A review of St. Germain reveals that element 5 is a one of a pair of flat bars

secured to a scaffolding post (Col. 2, lines 51-53); that element 10 is a hollow beam which is welded or otherwise fixed to a rod 11 held between the flat bars 5 and 6 (Col. 2, lines 55-58 and FIG. 1); that element 23 is a peg at the end of the beam 10 (Col. 3, lines 25-27); and that element 18 is a rigid link connected at one end to a bracket 12 which is secured to the wall 16 and at the other end receives the peg 23 of the beam 10 (Col. 3, lines 14-15 and 22-27).

Claim 6 has been amended to clarify that the standoff leg engages the wall when the fall protection system is erected adjacent the wall without being secured to the wall. As is clear from the description of Applicants' fall protection system, the attachment system secures the scaffolding of the fall protection system to the wall, the standoff assembly, on the other hand, serves, in part, to maintain a determined spacing between the wall and the scaffolding. The elements of St. Germain noted by the Examiner comprise an attachment system for securing the scaffolding to the wall, as was recognized by the Examiner in his rejection of Claim 16. However, these elements do not engage the wall, as set forth in Claim 6. Rather, as seen in FIG. 1, which is reproduced above, the end link 18 is spaced from the wall to be connected to the bracket plate 12'. Further, the elements noted by the Examiner are secured to the wall – the bracket 12 is fixed to the wall, the link 18 is fixed to the bracket, the bar 10 is fixed to both the link and flat bars 5 and 6. Claim 6 as set forth provides that the standoff assembly engages the wall without being secured to the wall. If Applicants' standoff assembly were secured to the wall, Applicants' attachment mechanism would be rendered inoperable. St. Germain does not



teach or suggest a standoff assembly having a leg which is adapted to engage the wall to maintain a desired distance between the wall and scaffolding without being physically secured to the wall. Claim 6 is therefore believed to be in condition for allowance independently of the allowability of Claim 1.

**G. Claims 9, 10, 11 and 20**

The Examiner rejected Claims 9, 10, 11 and 20 under 35 U.S.C. §103 as being unpatentable over Dandurand, Burton and St. Germain and further in view of Shoemaker.

Claims 9-11 depend from Claim 1 and are believed to be allowable in view of the allowability of Claim 1.

**III. New Claims**

New Claim 21 has been added. New Claim 21 depends from Claim 1 via Claim 3 and provides that the fall protection system includes a gravity pin. The language of Claim 21 is taken largely from paragraph [0038] of the application. This claim does not add new matter to the application. Claim 21 is allowable in view of its dependency from Claim 1, which as discussed above, is believed to be in condition for allowance. Further, none of the art of record discloses a locking or gravity pin such as set forth in Claim 21. Claim 21 is thus also believed to be allowable independently of Claim 1.

**IV. Claims 12 and 19**

As noted by the Examiner, Claims 12 and 19 were withdrawn as being directed to a non-selected species. However, as discussed above, Claims 12 and 19 depend from independent Claims 1 and 16, respectively. As discussed above, Claims 1 and 16 are

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believed to be in condition for allowance. In view of the fact that Claims 1 and 16 are generic to the two species set forth in the election requirement of March 8, 2007, Applicants respectfully request that Claims 12 and 19 be rejoined.

#### **V. Summary**

As discussed above, Claims 1-6, 8-12 and 16-21 are believed to be in condition for allowance. Issuance of a Notice of Allowability with respect to these claims is respectfully requested.

You are hereby authorized to charge payment of an extension fee associated with this communication or credit any overpayment to Deposit Account No. 162201.

Respectfully Submitted,

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